

# **CODE OF PRACTICE ON ACCESS TO INFORMATION, GOVERNMENT OF UTTAR PRADESH**

## **PART I**

### **1. Code and its purpose**

This code is named as 'CODE OF PRACTICE ON ACCESS TO INFORMATION, GOVERNMENT OF UTTAR PRADESH' and shall come into force w.e.f., 2000 A.D. This Code supports the Policy of Governance of extending access to official information, and responding to reasonable requests of the public for information except where disclosure of such an information, would not be in the public interest as specified in Part II of this Code.

### **2. The aims of this Code are:**

- (1) to improve policy making and the democratic process by extending access to the facts and analyses which provide the basis for the consideration of proposed policy;
- (2) to protect the interests of the individuals by ensuring that reasons are given for administrative decisions, except where there is statutory authority or established convention to the contrary; and
- (3) to support and extend the principles of public service established under the Citizen's Charter.

### **These aims are balanced by the need:**

- (1) to maintain high standards of care in ensuring the privacy of personal and commercially confidential information; and
- (2) to preserve confidentiality where disclosure would not be in the public interest or would breach personal privacy or the confidences of a third party, in accordance with statutory requirements and Part II of the Code.

### **3. Information the Government will release**

Subject to the exemptions in Part II, the Code commits departments and public bodies under the jurisdiction of the State Government of U.P.

- (i) to publish the facts and analyses of the facts which the Government considers relevant and important in framing major policy proposals and decisions; such information will normally be made available when policies and decisions are announced;
- (ii) to publish or otherwise make available, as soon as practicable after the Code becomes operational, explanatory material on departments dealings with the public (including such rules, procedures, internal guidance to officials and similar administrative manuals as will assist better understanding of departmental actions in dealing with the public) except where publication could prejudice any matter which should properly be kept confidential under Part II of the Code;
- (iii) to give reasons for administrative decisions to those affected;
- (iv) to publish in accordance with the Citizen's Charter;
  - (a) full information about how public services are run, how much they cost, who is incharge, and what complaints and redress procedures are available;
  - (b) full and, where possible, comparable information about what services are being provided, what targets are set what standards of service are expected and the results achieved.

- (v) to release, in response to specific requests, information relating to their policies, actions and decisions and other matters related to their areas of responsibility.
4. There is no commitment that pre-existing documents, as distinct from information, will be made available in response to requests. The Code does not require departments to acquire information they do not possess, to provide information which is already published, to provide material which the Government did not consider to be reliable information, or to provide information which is provided as part of an existing charged service other than through that service.
  5. **Responses to request for information**  
Information will be provided as soon as practicable. The target for response to simple requests for information is 30 working days from the date of receipt. This target may need to be extended when significant search or collation of material is required. Where information cannot be provided under the terms of the Code, an explanation will normally be given.
  6. **Scope**  
The Code applies to every departments of the Government of Uttar Pradesh, Organisations and offices such as Public Sector Undertakings, Local Bodies, Developmental Authorities, Corporations, Directorates, Boards, Offices of Divisional Commissioners, Trade Tax Commissioner, Entertainment Tax Commissioner, Consolidation Commissioner; etc. within its jurisdiction. The Code also applies to agencies within departments and to function carried out on behalf of a department or public body by contractors.
  7. **Charges**  
Departments, agencies and public bodies will make their own arrangements for charging. Schemes may include a standard charge for processing simple requests for information. Where a request is complex and would require extensive searches of records or processing and collation of information, and additional charge, reflecting reasonable costs, may be realized.
  8. **Relationship to statutory access rights**  
It is not envisaged that the Government will become involved in supervising these statutory rights like extracts of land records, birth and death certificates entries in electoral rolls etc. available to the Citizens under various Acts. Where a statutory right is proposed but has yet to be implemented, access to relevant information may be sought under the Code, but the Code should not be regarded as a means of access to original documents of personal files.
  9. **Public records**  
The Code is not intended to override statutory provisions on access to public records.
  10. **Jurisdiction of courts, tribunals or inquiries**  
The Code only applies to Government held information. It does not apply to or affect information held by courts or contained in court documents. The present practice covering disclosure of information before courts, tribunals and inquiries will continue to apply.
  11. **Facilitating access to information**
    - (1) Every department of the Government of Uttar Pradesh, Organisations and Offices such as Public Sector Undertakings, Local Bodies, developmental Authorities, Corporations, Directorates, Boards, Offices of Divisional Commissioners, Trade Tax commissioner,

Entertainment Tax Commissioner etc. shall nominate an officer as 'Public Information Officer' for information relating to the department / organisation / office and it will be the responsibility of the Public Information Officer, to deal with requests for access to information, and to render reasonable assistance to requesters seeking access to information.

- (2) Every Department shall nominate an officer as Public Information Officer for information relating to secretariat and it will be the responsibility of this Public Information Officer to deal with requests for access to information and to render reasonable assistance to requesters seeking access to information.
- (3) A request under this Code shall be made to the appropriate Public Information Officer in writing and specify, as clearly as possible, the particulars of the information, document or records to which access is being sought, where a requester cannot for valid reasons, make a request in writing, the Public Information Officer may either accept an oral request or render reasonable assistance to the requester in making a written request.
- (4) District Information Officers shall carry out responsibilities of Public Information Officers, as enumerated in paragraphs 11(1) and 11(2) in respect of the districts under their charge. District Magistrates and Collectors will ensure suitable strengthening of Information Officers for discharge of this important responsibility under this Code.

## **12. Investigation of complaints**

Complaints, that information which should have been provided under this Code has not been provided, or that unreasonable charges have been demanded, should be made first to the head of the concerned office or body. If the applicant remains dissatisfied, complaints may be made to the departments Secretary, whose decision will be final. If the applicant still remains dissatisfied, complaint may be made to the Principal Secretary / Secretary, Department of Administrative Reforms, whose decision will be final.

13. All Departments, Public Sector Undertakings, Local Bodies, Developmental Authorities, Boards, Directorates, Corporations and other organisations under the Government of U.P. will keep month-wise account of the number, and nature of the applications received, accepted and rejected and shall make available this information to the Department of Administrative Reforms within 15 days of the close of the financial year for publication in the form of an Annual report on the working of the Code of Practice.

## **PART II**

### **Reasons for Confidentiality**

The following categories of information are exempt from the commitments to provide information in this Code:

Reference to harm or prejudice include both actual harm or prejudice and risk or reasonable exceptions of harm or prejudice. In such cases it should be considered whether any harm or prejudice arising from disclosure is out weighed by the public interest in making information available.

The exemptions will not be interpreted in a way which causes injustice to individuals.

#### **1. Defence, Security and international relations**

- (a) Information whose disclosure would harm national security or defence.
- (b) Information whose disclosure would harm the conduct of international relations or affairs.
- (c) Information received in confidence from foreign Governments, foreign courts or international organisations.
- (d) Information which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India.

#### **2. Internal discussion and advice**

Information whose disclosure would harm the frankness and candour of internal discussion, including:

- Proceedings of Cabinet and Cabinet Committee,
- Internal opinion, advice, recommendation, consultation and deliberation
- Projections and assumptions relating to internal policy analyses, analyses of alternative policy options and information relating to rejected policy options,
- Communication between departments, public bodies and regulatory bodies.

#### **3. Communications with His Excellency, Governor, Chief Minister, Council of Ministers / Member of Legislative Assembly / Council**

Information relating to communications with His Excellency, The Governor, Chief Minister, Council of Ministers, Members of Legislative Assembly / Council.

#### **4. Law enforcement and legal proceedings**

- (a) Information whose disclosure would prejudice the administration of justice, including fair trial and the enforcement or proper administration of the law.
- (b) Information whose disclosure would prejudice legal proceedings or the proceedings of any tribunal, public inquiry or other formal investigation (whether actual or likely) or whose disclosure is, has been or is likely to be addressed in the context of such proceedings.
- (c) Information relating to proceedings which have been completed or terminated, or relating to investigations which have or might have resulted in proceedings.
- (d) Information covered by legal professional privilege.
- (e) Information whose disclosure would prejudice the prevention, investigation or detection of crime, the apprehension or prosecution of offenders, or the security of any building or penal institution.
- (f) Information whose disclosure would harm public safety or public order.
- (g) Information whose disclosure could endanger the life or physical safety of any person, or identify the source of information or assistance given in confidence for law enforcement or security purpose.

- (h) Information whose disclosure would increase the likelihood of damage to the environment, or rare or endangered species and their habitats.
5. **Immigration and nationality**  
Information relating to immigration and nationality.
6. **Effective management of the economy and collection of tax**  
(a) Information whose disclosure would harm the ability of the Government to manage the economy, prejudice the conduct of official market operations, or could lead to improper gain or advantage.  
(b) Information whose disclosure would prejudice the assessment or collection of tax, duties or National Insurance contributions, or assist tax avoidance or evasion.
7. **Effective management and operations of the public service**  
(a) Information whose disclosure could lead to improper gain or advantage or would prejudice:  
- the competitive position of a department or other public body or authority;  
- negotiations or the effective conduct of personnel management, or commercial or contractual activities;  
- the awarding of discretionary grants;  
(b) Information whose disclosure would harm the proper and efficient conduct of the operations of a department or other public body or authority, or of any regulatory body.
8. **Public employment, public appointments and honours**  
(a) Personnel records (relating to public appointments as well as employees of public authorities) including those relating to recruitment, promotion and security vetting.  
(b) Information, opinions and assessments given in confidence in relation to public employment and public appointments.  
(c) Information, opinions and assessments given in relation to recommendations for honours.
9. **Voluminous or vexatious requests**  
Requests for information which are vexatious or manifestly unreasonable or are formulated in too general a manner, or which (because of the amount of information to be processed or the need to retrieve information from files not in current use) would require unreasonable diversion of resources.
10. **Publication and prematurity in relation to publication**  
Information which is or will soon be published, or whose disclosure would be premature in relation to a planned announcement or publication.
11. **Research, statistics and analyses**  
(a) Information relating to incomplete analyses, research or statistics, where disclosure could be misleading or deprive the holder of priority of publication or commercial value.  
(b) Information held only for preparing statistics or carrying out research, or for surveillance for health and safety purposes (including food safety), and which relates to individuals, companies or products which will not be identified in reports of that research or surveillance, or in published statistics.
12. **Privacy of an individual**  
Unwarranted disclosure to a third party of personal information about any person (including a deceased person) or any other disclosure which would constitute or could facilitate an unwarranted invasion of privacy.

**13. Third Party Interests**

Third party's commercial confidence, trade secrets or intellectual property whose unwarranted disclosure would harm the competitive position of a third party.

**14. Information given in confidence**

- (a) Information held in consequence of having been supplied in confidence by a person who:
  - gave them information under a statutory guarantee that its confidentiality would be protected; or
  - was not under any legal obligation, whether actual or implied, to supply it, and has not consented to its disclosure.
- (b) Information whose disclosure without the consent of the supplier would prejudice the future supply of such information.
- (c) Medical information provided in confidence the disclosure to the subject would harm their physical or mental health, or should only be made by a medical practitioner.

**15. Statutory and other legislation**

- (a) Information whose disclosure is prohibited by or under any enactment, regulation, agreement.
- (b) Information whose release would constitute a breach of Parliamentary Privilege.

**16. General Guidance on Charges for Information**

- (1) All departments and other organisations under the Government should not charge for the provision of information which it is necessary for the public to have as part of fair and accountable performance of their functions. Information explaining:
  - benefits grants, rights and entitlements;
  - the standards, and availability of services;
  - the reasons for administrative decisions made in applicant's case;
  - the ways in which the citizen may exercise rights to appeal or complain about a decision;
  - regulatory requirements affecting affairs of a business, or commercial interests; and
  - the main points of existing departmental policies or initiatives;
  - should usually be available free of charge.

There may usually be a charge if a request for information does not come within one of these categories, and causes additional work.

- (2) Providing information to meet a specific individual request, which is not in the course of a department's normal day-to-day business, will always have associated costs. The Government's aim is that where charges are made they should strike a balance between the interests of the applicant and those of the taxpayer. It is for individual departments to decide how best to apply this principle to their particular circumstances.
- (3) Applicants should always be informed of any charges before any work is done.

**17. Dissemination of Code**

All concerned departments and other organisations must ensure that all the staff is aware of the Code of Practice and that all requests for information, from receipt are assessed against the Code's provision.